

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THEOFANIS PAPADOPOULOS, *et al.*,

Plaintiffs,

v.

FRED MEYER STORES, INC.,

Defendant.

No. C04-0102RSL

ORDER DENYING DEFENDANT'S  
MOTION FOR RECONSIDERATION

On May 17, 2006, the Court granted plaintiffs' motion for partial summary judgment regarding comparative negligence. Dkt. # 103. Defendant has filed a timely motion for reconsideration in which it argues that there was sufficient evidence in the record to allow a reasonable jury to find that Mr. Papadopoulos' negligence contributed to his injuries.

Motions for reconsideration are disfavored in this district and will be granted only upon a "showing of manifest error in the prior ruling" or "new facts or legal authority which could not have been brought to [the Court's] attention earlier without reasonable diligence." Local Civil Rule 7(h)(1). Defendant has not met this burden. In response to plaintiffs' request for a summary determination that Mr. Papadopoulos was not negligent, defendant argued that plaintiff should have noticed the uneven area of flooring, that he should not have been pushing a shopping cart so soon after his heart surgery, and that plaintiff failed to mitigate his damages. Opposition at 12-13 (Dkt. # 50). Defendant offered no case law regarding a customer's duty to

ORDER DENYING DEFENDANT'S  
MOTION FOR RECONSIDERATION

1 notice imperfections in the floor: its argument on this issue consisted of five lines and included  
2 none of the citations included in its motion for reconsideration. Nor did defendant argue, as it  
3 does now, that Mr. Papadopoulos was negligent because he reached up to get the cat food, failed  
4 to stop after his cart crossed the rough surface, or turned his head to look for the cat food or  
5 respond to his sister-in-law. Defendant cannot show manifest error based on the Court's failure  
6 to accept arguments or consider cases that were not presented in a timely manner. Nor has  
7 defendant identified any facts or legal authority that could not have been brought to the Court's  
8 attention in its earlier memorandum.

9  
10 For all of the foregoing reasons, defendant's motion for reconsideration (Dkt.  
11 # 107) is DENIED.

12  
13 DATED this 2nd day of June, 2006.

14  
15  
16 

17 Robert S. Lasnik  
18 United States District Judge  
19  
20  
21  
22  
23  
24  
25  
26